

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:07CR72
v.	§	
	§	
AHMON ANDERSON	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 17, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Ernest Gonzalez.

On September 5, 2006, the Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of time served followed by a 3-year term of supervised release for the offense of conspiracy to possess stolen mail matter. Defendant's original term of supervised release was revoked on September 21, 2007, and Defendant was sentenced to 12 months imprisonment followed by a 24-month term of supervised release. Defendant's new term of supervision began on August 1, 2008.

On February 9, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 17). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (4) Defendant shall notify the probation officer at least ten days prior to any change of residence or employment; (5) Defendant shall pay restitution in the amount of \$8,412.58 jointly and severally with the co-defendants on a monthly basis at a rate of at least 10% of Defendant's gross income.

The petition alleges that Defendant committed the following violations: (a) on May 19, 2009, Defendant submitted a urine specimen that tested positive for methamphetamine; (b) Defendant failed to report for office visits as directed on June 17, August 3 and 18, September 16 and November 19, 2009, and Defendant failed to submit monthly supervision reports for the months of November and December 2009; (c) during home visits on December 4, 2009 and December 14, 2009, Defendant's mother, Geri Mosely, informed the probation officer that Defendant was no longer residing with her and that she did not know where he was residing; (d) Defendant's whereabouts were unknown at the time of the filing of the petition; and (e) Defendant has failed to

pay restitution as directed and is in default status, in September 2008, Defendant signed a payment schedule agreeing to make payments of at least \$130 per month, Defendant has paid \$1,378 toward restitution during this term of supervised release, the vast majority of which was a result of an Internal Revenue Service offset in the amount of \$1,153, Defendant is \$632 delinquent, and the current restitution balance is \$6,859.58.


At the hearing, the Government withdrew its allegations regarding the conditions set forth in paragraph (4), and Defendant entered a plea of true to the alleged violations set forth in paragraphs (1), (2), (3) and (5). The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the hearing, the Court recommends that the Defendant be committed to of the Bureau of Prisons to be imprisoned for a term of 10 months, with no supervised release to follow. It is further recommended that Defendant be required to pay restitution, jointly and severally with his co-defendants, in the amount of \$8,412.58. The restitution should be due immediately, payable by cashier's check or money order, to the United States District Clerk and forwarded to the United States District Clerk's Office, 1100 Commerce Street, Room1452, Dallas, Texas 75242. Interest should be waived.

SIGNED this 24th day of August, 2010.

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DON D. BUSH
UNITED STATES MAGISTRATE JUDGE